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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/840,145

05/06/2004

Jack C. LaSee

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BOYLE FREDRICKSON S.C.
840 North Plankinton Avenue
MILWAUKEE, WI 53203

EXAMINER

GILBERT, WILLIAM V

ART UNIT

PAPER NUMBER

3635

NOTIFICATION DATE

DELIVERY MODE

05/14/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@boylefred.com

Office Action Summary	Application No. 10/840,145	Applicant(s) LASEE, JACK C.	
	Examiner William V. Gilbert	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 August 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is a non-final office action. Claim 8 has been cancelled.
Claims 1-7 and 9-20 are pending.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitations drawn to the embedded portions of the sharp edges in the pane when the pane is in a semi-molten state (e.g. Claim 1, lines 12-14) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional

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replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 20 recites the limitation "the retention member" in line 1. There is insufficient antecedent basis for this limitation in the claim. For purposes of examination, the examiner assumed the "retention member" is the same as the "retention member" in claim 1.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

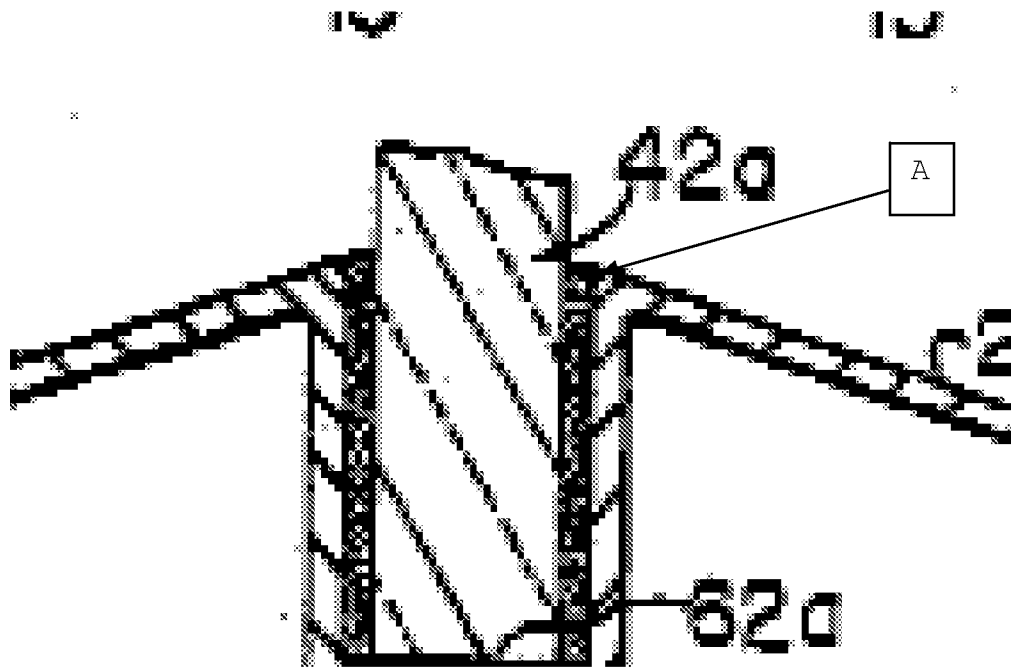
Claims 1, 7, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Stark (U.S. Patent No. 4,259,818).

Claim 1: Stark discloses a window panel comprising first and second flange units (Fig. 5: 22a, 20a, respectively) each comprising a preassembled rectangular frame (Fig. 1, generally), sash elements (32a, 28a, respectively) that extend into the opening to capture a transparent pane (42a), at least one retention member (52a) attached to the first flange unit and extending into the opening to grip a sill surface (64a) to retain the first flange unit (22a) and the sash element in position for assembly, and at least one fastener (15a) adapted to draw the first and second flanges and the sash elements together against the pane, the sash elements include inwardly spring biased sharp edge portions (see "A" from attached Fig. 5 from Stark, below, and the edge portions are spring-biased via

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fastener, 15), and the elements are spring biased via fastener (15a) in contact with the pane and the edge portion would embed in the pane when the pane is in a semi-molten state. The language "wherein said sharp edge...semi-molten in fire" lines 13 and 14 are steps that relate to a desired result and the examiner contends that as a glass pane becomes molten, it will inherently soften which would result in virtually anything imbedding in the pane if a force (such as a spring bias against the sharp edge) were applied to it. Regarding the limitation "preassembled", the limitations are drawn to method steps and only the final product, the apparatus, is provided patentable weight.

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**Figure 5 from Stark**

Claim 7: the opening is rectangular (Fig. 1) having four sill surfaces and the vision panel has four retention members (see Fig. 4, generally), attached indirectly to the first flange unit and extending into the opening to grip all four sill surfaces.

Claim 9: a surface of the retention member (62a) supports edges of the pane.

Claim 10: the flange units are straight segments joined at corners by a type of weld fastening (while the prior art notes that the four sides as a single unit, it is four segments joined at the corners).

Claims 1, 3-6 and 11, 14 and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by LaSee (U.S. Patent No. 5,207,044).

Claim 1: LaSee discloses a vision panel (Fig. 1: generally) having a first and second flange units (25), each comprising a preassembled rectangular frame (see Fig. 1, generally where the frame, portion 18, is a rectangular frame) that abut a front and rear face of the door (10), sash elements (26) that extend into the opening and capture a transparent pane (19) within the opening, a retention member (31) attached to the first flange and extending into the opening to grip a sill surface of the opening to retain the first flange unit and sash elements in position, and a fastener (33) that draws the first and second flanges and sash elements together against the pane, and the sash elements (26) have inwardly spring biasing sharp edges (see "B" from attached Fig. 2 from LaSee, below,) and the elements are spring biased via fastener (28) in contact with the pane and the edge portion would embed in the pane when the pane is in a semi-molten state. The language "wherein said sharp edge...semi-molten in fire" lines 13 and 14 are steps that relate to a desired result and the examiner contends that as a glass pane becomes molten, it will inherently soften which would result in

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virtually anything imbedding in the pane if a force (such as a spring bias against the sharp edge) were applied to it.

Regarding the limitation "pre-assembled", the limitation is drawn to method steps and only the final product, the apparatus, is provided patentable weight.

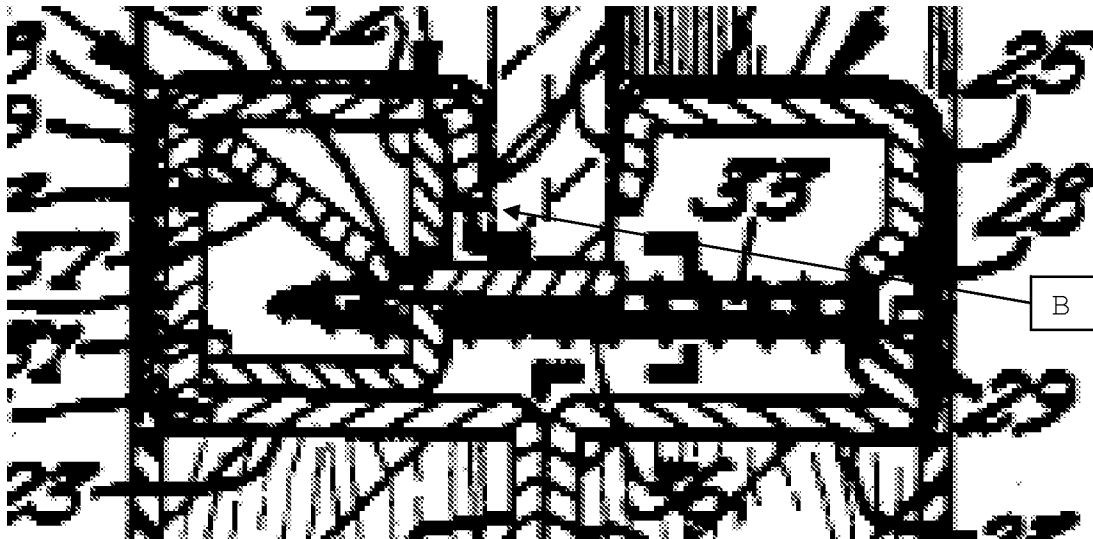


Figure 2 from LaSee

Claim 3: the fastener is threaded and the second flange unit has a hole (proximate 29) for receiving the threaded fastener and the retention member has a socket (proximate 34) for receiving an end of the threaded fastener after it has passed through a hole.

Claim 4: the socket is attached to the retention member by a spring element (32) that would allow movement of the socket to the second flange unit against a spring bias force.

Claim 5: the spring element (32) is a cantilevered tab, extending across an axis of the threaded fastener that would flex with increased engagement of the threaded fastener.

Claims 6: LaSee discloses a non-threaded portion of the fastener (the head of the fastener) that would inherently limit engagement of the threaded fastener with the socket.

Claim 11: LaSee discloses a vision panel having a first and second flange units (25) sized to frame the opening and abut front and rear faces of the door, sash elements (26) adapted to extend into the opening from each of the first and second flanges to hold a transparent pane (19) therebetween within the opening, a spring member (32) attached to the first flange and extending into the opening to support on a cantilevered tab (portion 32 is a cantilever) a threaded socket (proximate 34) spring biased toward the first flange unit along a direction through the opening and a threaded fastener (33) adapted to engage the second flange unit and the socket to draw the flange units and sash elements together against the pane.

Claim 14: the threaded socket is attached to a cantilevered tab (32) of a member attached to the first flange unit and

extending into the opening, wherein the tab extends across an axis following a length of the threaded fastener that would flex with increased engagement of the threaded fastener.

Claim 17: the vision panel includes four retention members (there would be at least one per side; see Fig. 2, generally) attached to the first flange unit and extending into the opening to support four threaded sockets.

Claim 18: a second flange has four holes (see Fig. 3), the holes (proximate 28) for receiving threaded fasteners (33) to engage the four threaded sockets (proximate 34).

Claim 19: the sash elements include inwardly biased sharp edges (see "B" above) that would embed in the panel member when the panel becomes semi-molten.

Claim 20: the upper surface of the retention member (32) indirectly supports the bottom of the transparent pane.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the

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art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stark in view of Petta (U.S. Patent No. 5,987,826).

Claim 2: Stark discloses the claimed invention including a fastening member (Fig. 6: 66) to attach the retention member to the sill, however Stark does not disclose a nail (which would result in a hole in the retention member) as a fastening means. Petta discloses a retaining member (Fig. 7: 92) with a nail (94) holding it in place. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use a nail in combination with the fastening member in Stark (which would result in a hole in the retention member) because a

nail is functionally equivalent to the fastening member in Stark and would perform equally as well.

Claims 12, 13, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaSee in view of DeBlock (U.S. Publication 2003/0066256).

Claims 12 and 13: LaSee discloses the claimed invention including a non-threading portion of the fastener (e.g. the head of the fastener) but it does not disclose drawing a threaded portion of the threaded socket over the non-threaded portion. DeBlock discloses an attachment system with a fastener (41) that has a threaded portion and a non-threaded portion. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use the fastener in DeBlock in the system in LaSee because the fasteners are functionally equivalent would perform equally as well. Please note that the focus of using the DeBlock reference is to show how a fastener can have both a threaded and non-threaded portion and still function properly. Further, while LaSee does not disclose that socket portion proximate 28 is threaded, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to have this portion threaded to aid in guiding the fastener during the attachment process. As a

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result of the obviousness rejection above, a threaded portion of the threaded socket (proximate 28) would be drawn over the non-threaded section of the shaft if a fastener such as the one in DeBlock were used. Per Claim 13, this would result in a limited depth of engagement and a predetermined compressive force of the sash elements against the pane.

Claim 15: LaSee discloses the claimed invention including the threaded fastener has a non-threaded portion (the head is a non-threaded portion), and that the socket is limited by a bending of the tab (the tab would bend if the fastener were turned enough), but it does not disclose the drawing of the threaded socket over the non-threaded portion of the fastener. DeBlock discloses a window system where the flanges are joined with a fastener (41) that has a portion of the shaft that does not have threads. Further, while LaSee does not disclose that socket portion proximate 28 is threaded, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to have this portion threaded to aid in guiding the fastener during the attachment process. As a result of the obviousness rejection above, a threaded portion of the threaded socket (proximate 28) would be drawn over the non-threaded section of the shaft if a fastener such as the one in DeBlock were used. It would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to use this type of fastener in combination with the window system in LaSee because the fastener in DeBlock would perform equally as well with the fastener in LaSee while limiting the ability of drawing the second portion too tight which could damage the assembly (having a non-threaded portion would limit the ability of tightening the flanges because once the socket portion reaches the non-threaded portion, it could not be tightened further.)

Claim 16: the limited depth of engagement would provide a predetermined compressive force of the sash element against the pane.

Response to Arguments

5. The following addresses applicant's remarks/arguments dated 25 January 2008:

Claim Objections/35 USC §112 Rejections:

Applicant's amendments to the claims overcome the objections/rejections and they are withdrawn.

35 USC §102 rejections:

The examiner respectfully disagrees with applicant's interpretation of the "sharp edge portions", and "spring-biased". With regards to the "sharp edge portions", the examiner contends that the portions indicated in the rejection above (with an added figure from LaSee) are sharp edged as each terminates in a point. To claim the limitation that these will embed in the pane when the pane becomes semi-molten in fire relate to method steps and intended use of the member. If the glass in the prior art of record cited above were to become molten, the examiner contends that the sashes would imbed in the glass. Further, the examiner contends that the members are "spring biased" due to the threaded member that holds the two sashes together. The resulting force drawing the two sashes together would result in a spring force.

Regarding Claim 11, the limitation "spring member" is very broad as no further limitations are provided to define the spring member. Further, as shown in the rejections above, a cantilever is present in the prior art of record.

Regarding Claim 12, applicant's arguments regarding the limitations of drawing the threaded portion of the socket over the non-threaded portion [of the fastener], are persuasive and the rejection is withdrawn. However, new grounds of rejection are made as noted above and the examiner maintains the position

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that the fasteners in the references cited in the rejection above are functional equivalences.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William V. Gilbert whose telephone number is 571.272.9055. The examiner can normally be reached on Monday - Friday, 08:00 to 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571.272.6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/W. V. G./
Examiner, Art Unit 3635
/Basil Katcheves/
Primary Examiner, Art Unit 3635